

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANTHONY D. DAVIS,

:

Plaintiff,

v.

:

Case No. 3:19-cv-117

COMMISSIONER OF SOCIAL
SECURITY,

:

JUDGE WALTER H. RICE

Defendant.

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #12);
OVERRULING PLAINTIFF'S OBJECTIONS THERETO (DOC. #13);
AFFIRMING ALJ'S NON-DISABILITY FINDING; JUDGMENT TO
ENTER IN FAVOR OF DEFENDANT AND AGAINST PLAINTIFF;
TERMINATION ENTRY

On June 5, 2020, United States Magistrate Judge Sharon L. Ovington issued a Report and Recommendations, Doc. #12, in which she recommended that the Court affirm the ALJ's non-disability decision. This matter is currently before the Court on Plaintiff's Objections thereto, Doc. #13, and Plaintiff's Response, Doc. #14.

Based on the reasoning and citations of authority set forth by Magistrate Judge Ovington, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS the Report and Recommendations, Doc. #12, and OVERRULES Plaintiff's Objections, Doc. #13, as meritless.

Magistrate Judge Ovington properly rejected Plaintiff's argument that the ALJ erred in failing to find a severe mental impairment at Step Two of the analysis. For the reasons explained in the Report and Recommendations, Doc. #12, PageID##5909-13, substantial evidence supports the ALJ's finding and, even if it did not, there is no reversible error, given the ALJ's finding of other severe impairments, and the fact that both severe and non-severe impairments were considered in the remaining steps of the analysis.

Magistrate Judge Ovington also properly rejected Plaintiff's argument that the ALJ erred in evaluating the severity of his physical symptoms. As explained in the Report and Recommendations, the ALJ considered not only Plaintiff's daily activities, but also the lack of adverse side effects from treatment or medication, Plaintiff's treatment history, and the fact that Plaintiff's condition had continued to improve following his fusion surgery. The ALJ properly determined that a reduced range of sedentary exertion adequately accounted for the location, duration, frequency, and intensity of Plaintiff's alleged symptoms, including pain, as well as any precipitating and aggravating factors. *Id.* at PageID##5913-16.

Finding no reversible error, the Court AFFIRMS the Commissioner's non-disability finding. Judgment shall be entered in favor of Defendant and against Plaintiff.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: October 26, 2020

Handwritten signature of Walter H. Rice in blue ink.

(tp - per Judge Rice authorization after his
review)

WALTER H. RICE
UNITED STATES DISTRICT JUDGE